

## **REMARKS**

This is a full and timely response to the non-final Office Action mailed on April 6, 2006 (Paper No./Date 032906). Through this response, no claims have been amended. Claims 3-5, 7-12, 14-15, 17-19, 21, 23-27, 29-32, 35-38 and 40-56 remain pending. Reconsideration and allowance of the application and pending claims are respectfully requested.

### **I. Claim Rejections – 35 U.S.C. § 103(a)**

#### **A. Rejection of Claims 3-5, 7-12, 14-15, 17-19, 21, 23-27, 29-32, 35-38, and 40-58**

Claims 3-5, 7-12, 14-15, 17-19, 21, 23-27, 29-32, 35-38, and 40-58 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. Patent No. 6,832,385 to Young *et al.*, hereinafter referenced as *Young*, in view of U.S. Patent No. 6,481,011 to Lemmons, hereinafter referenced as *Lemmons*. Applicants respectfully traverse these rejections.

#### **B. Discussion of the Rejection**

As has been acknowledged by the Court of Appeals for the Federal Circuit, the U.S. Patent and Trademark Office (“USPTO”) has the burden under section 103 to establish a *prima facie* case of obviousness by showing some objective teaching in the prior art or generally available knowledge of one of ordinary skill in the art that would lead that individual to the claimed invention. *See In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). The Manual of Patent Examining Procedure (MPEP) section 2143 discusses the requirements of a *prima facie* case for obviousness. That section provides as follows:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teaching. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and reasonable expectation of success must be found in the prior art, and not based on applicant’s disclosure.

In the present case, is respectfully asserted that a *prima facie* case for obviousness has not been established.

## Independent Claim 41

The independent claim 41, as previously presented, recites:

41. A method that is implemented via a digital home communication terminal for managing television presentation recordings comprising:

determining if a television presentation corresponding to a television presentation listing is scheduled to be recorded;

assigning a first color to the television presentation listing if the television presentation is scheduled to be recorded, wherein the color can be selected from a selectable option by a user;

determining whether the television presentation has a time scheduling conflict with another television presentation that is scheduled to be recorded;

***assigning a second color responsive to determining that the television presentation has a time scheduling conflict with the another television presentation that is scheduled to be recorded;*** and

***presenting the television presentation listing as part of an interactive program guide (IPG) having the second color as a background color for the television presentation listing,*** wherein the IPG includes a main program display area that contains the television presentation listing that is assigned the second color and information corresponding to the availability of the television presentation listing for viewing during at least one time period.

***(Emphasis Added.)***

Applicants respectfully submit that the combination of *Young* and *Lemmons* does not disclose, teach or suggest the emphasized features as highlighted in the previously presented independent claim 41 above. More specifically, the combination of *Young* and *Lemmons* does disclose, teach or suggest “assigning a second color responsive to determining that the television presentation has a time scheduling conflict with the another television presentation that is scheduled to be recorded,” and “presenting the television presentation listing as part of an interactive program guide (IPG) having the second color as a background color for the television presentation listing.”

It is admitted in the Office Action that *Young* “fails to disclose that the color of the conflict is a changeable color option.” *Office Action, page 2*. Applicants respectfully submit, however, that *Young* does not even address a time scheduling conflict for programs selected to be recorded. Specifically, *Young* recites:

FIGS. 2 and 3 show recording status representations. *When a program has been selected for recording, its listing cell 26 will be outlined or highlighted in red*, as indicated at 40. If guard time has been added or deleted, the cell will be stretched or shrunk to reflect the change. Cell 26 continuity will be treated the same as above. There are four other record status representations:

If the cell is actively being recorded, the outline 40 will blink off and on.

*A recorded cell will be displayed with a solid red background 42* (Note: Not shown in drawing).

*A mis-recorded cell will be indicated by red hash-marks 44 over the title.* A mis-recording can be the result of insufficient tape, VCR loss of power, stopped before completion, etc.

A program linking icon 46 is shown in FIG. 5. After each schedule update, the schedule system examines the new listings for the occurrence of any titles that match a title in Linked Titles (FIG. 23). If a title matches, it will automatically be tagged for recording. When a linked program is displayed in the guide, it will have two identifiers: a red outline 40 indicating that the title has been selected for recording, and a link icon 46 appended to the title to indicate that this title was link-selected. After a linked program has been recorded, it will be treated like any recorded program with the title shaded in red. To differentiate this recording from others, the link icon will remain appended to the title.

*Column 7, line 51 through column 8, line 10. (Emphasis added.)*

As indicated above, *Young* appears, *arguendo*, to teach highlighting a program that is selected for recording and also highlighting a program after that program has been recorded. *Young* further appears, *arguendo*, to teach highlighting a mis-recorded cell with a different color/pattern than that of a recorded program or a program selected for recording. A mis-recorded cell is identified as a possible result of insufficient tape, VCR loss of power, or stopped before completion.

Applicants respectfully note that a mis-recorded cell indicates a program that *has been recorded* incorrectly and further submit that identification of a mis-recorded program is not the same as an indication of a time scheduling conflict. Indeed, even if, *arguendo*, the indication of a mis-recorded cell results from a time scheduling conflict, the indication is apparent only after the recording has taken place. There is no discussion of selecting a color, highlight, or other pattern, and thus no discussion of selecting a color, highlight, or other pattern to indicate a time scheduling conflict between a program selected for recording and another program selected

for recording. Indeed, *Young* does not address at all the indication of a time scheduling conflict between two programs selected for recording, and as such does not address “assigning a second color responsive to determining that the television presentation has a time scheduling conflict with the another television presentation that is scheduled to be recorded,” and “presenting the television presentation listing as part of an interactive program guide (IPG) having the second color as a background color for the television presentation listing.” Neither does *Lemmons* address this deficiency.

It is asserted in the Office Action that:

Lemmons discloses in Figure 6 and 10 the option for the user to select color for desired function of the IPG to allow for a more efficient and personalized system as described in Column 9 lines 43+. Furthermore, Lemmons discloses that the user of a IPG having color coded options of recorded programs prevents programming difficulty that often occurs through recording multiple functions as described in Column 1 Lines 43+ and thereby improving the overall use and function of an IPG and meeting the limitation.

*Office Action, page 2.*

It is also asserted in the Office Action that:

Lemmons discloses a scheduling system that allows user selectable option of cell colors of the EPG. The color option allows for the viewer to view programs and functions on the EPG much like the color options discussed in *Young et al* in column 6 Lines 60+.

*Office Action, page 3.*

Applicants respectfully disagree with these characterizations of *Lemmons*.

Indeed, *Lemmons* discloses as follows:

The user may select particular program characteristics (of the many available) to serve as preference attributes and assign a color for each preference attribute. ***The preference attribute and its respective colors are associated as display criteria for use by the program guide.*** More particularly, the colors may be displayed in the program guide to provide visual emphasis to programming that meets the preferred criteria, and to allow the user to quickly and easily recognize such

programming. Programming which does not fall within the preferred criteria is also displayed, although without particular color coding.

The subject invention provides several ways the user can define programming preferences with greater specificity than simply by channel or broad genre. The user may select particular ones of the program characteristics as preference attributes. *For example, preference attributes may be the title of a serial program or the name of an actor. Likewise, a preference attribute may be a programming genre or category, or a topic of interest.* Thus, a user may inform the program guide that the user likes a particular serial program, such as "60 Minutes," a particular actor, such as John Wayne, a particular programming category, such as soap operas. Conversely, a user may inform the program guide of programs, actors, or genres that the user dislikes. *The preference attributes are selected from the program listings data, described above.* For each of these preferences, the user may assign a color. After the selections have been made, the program guide may access program listings data and search for programming having the preferred preference attributes. When a program satisfies any of the above criteria, the program guide then displays the listing or cell associated with the television program in an associated color.

*Lemmons, Column 5, lines 19-52. (Emphasis added.)*

*Lemmons* appears, *arguendo*, to teach user selection of preference attributes and respective colors as display criteria. The preference attributes are related to the titles, actors, or genres, for example, of a program. The user selection appears, *arguendo*, to apply to groupings and there is no discussion of selecting colors, highlights, or other patterns to indicate selection of individual programs for recording, and thus no discussion of time scheduling conflicts for programs scheduled for recording. Indeed, Applicants respectfully assert that *Lemmons* does not discuss time scheduling conflicts for selected programs at all, and consequently there is no discussion of **assigning a color to a television presentation listing scheduled for recording that conflicts with another television presentation listing scheduled for recording.**

Applicants respectfully submit that the combination of *Young* and *Lemmons* does not disclose, teach or suggest "assigning a second color responsive to determining that the television presentation has a time scheduling conflict with the another television presentation that is scheduled to be recorded," and "presenting the television presentation listing as part of an interactive program guide (IPG) having the second color as a background color for the television presentation listing." Thus, a *prima facie* case of obviousness is not established based on *Young*

and *Lemmons*. Consequently, for at least this reason, among others, Applicants respectfully request that claim 41 be allowed and the rejection be withdrawn.

Because independent claim 41 is allowable over the proposed combination, dependent claims 3-5, 7-12, 14-15, 17-19, 21 and 42-45 are allowable as a matter of law for at least the reason that dependent claims 3-5, 7-12, 14-15, 17-19, 21 and 42-45 contain all elements of independent claim 41. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Accordingly, the rejection to dependent claims 3-5, 7-12, 14-15, 17-19, 21 and 42-45 should be withdrawn for at least this reason, among others.

### Independent Claim 23

Independent claim 23 recites:

23. A system for managing television presentation recordings comprising:  
determination logic for determining if a television presentation  
corresponding to a television presentation listing is scheduled to be recorded;  
***assignment logic for assigning a color to the television presentation  
listing in response to the determination logic determining that the television  
presentation is scheduled to be recorded and has a time scheduling conflict with  
another television presentation that is scheduled to be recorded, wherein the  
color can be selected from a selectable option by a user; and***  
***presentation logic for presenting the television presentation listing  
having the color that indicates that the television presentation has the time  
scheduling conflict and is scheduled to be recorded,*** the television presentation  
listing being presented as part of a requested interactive program guide (IPG),  
wherein the IPG includes a main program display area that contains the television  
presentation listing that is assigned the color and information corresponding to the  
availability of the television presentation listing for viewing during at least one  
time period.

***(Emphasis added.)***

As argued above, *Young* appears, *arguendo*, to teach highlighting a program that is selected for recording, highlighting a program after that program has been recorded, and highlighting a mis-recorded cell with a different color/pattern than that of a recorded program or a program selected for recording. There is no discussion of selecting a color, highlight, or other pattern, and thus no discussion of selecting a color, highlight, or other pattern to indicate a time

scheduling conflict between a program selected for recording with another program selected for recording. Indeed, *Young* **does not address at all the indication of a time scheduling conflict between two programs selected for recording.**

As further argued above, *Lemmons* appears, *arguendo*, to teach user selection of preference attributes and respective colors as display criteria. The preference attributes are related to the titles, actors, or genres, for example, of a program. The user selection appears, *arguendo*, to apply to groupings and there is no discussion of selecting colors, highlights, or other patterns to indicate selection of individual programs for recording, and thus no discussion of time scheduling conflicts for programs scheduled for recording. As also argued above, *Lemmons* does not discuss time scheduling conflicts for selected programs at all, and consequently there is no discussion of **assigning a color to a television presentation listing scheduled for recording that conflicts with another television presentation listing scheduled for recording.**

Applicants respectfully submit that the combination of *Young* and *Lemmons* does not disclose, teach or suggest “assignment logic for assigning a color to the television presentation listing in response to the determination logic determining that the television presentation is scheduled to be recorded and has a time scheduling conflict with another television presentation that is scheduled to be recorded, wherein the color can be selected from a selectable option by a user,” and “presentation logic for presenting the television presentation listing having the color that indicates that the television presentation has the time scheduling conflict and is scheduled to be recorded.” Thus, a *prima facie* case of obviousness is not established based on *Young* and *Lemmons*. Consequently, for at least this reason, among others, Applicants respectfully request that claim 23 be allowed and the rejection be withdrawn.

Because independent claim 23 is allowable over the proposed combination, dependent claims 24-27, 29-32, 35-38 and 40 are allowable as a matter of law for at least the reason that dependent claims 24-27, 29-32, 35-38 and 40 contain all elements of independent claim 23. See, *e.g.*, *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Accordingly, the rejection to dependent claims 24-27, 29-32, 35-38 and 40 should be withdrawn for at least this reason, among others.

## Independent Claim 50

Independent claim 50, as amended, recites:

50. A method for managing television presentation recordings comprising:  
presenting selectable options for selecting and assigning colors to a television presentation listing that is scheduled to be recorded;  
determining if the television presentation corresponding to a television presentation listing is scheduled to be recorded;  
***assigning a color to the television presentation listing if the television presentation is scheduled to be recorded;*** and  
***presenting the television presentation listing as part of an interactive program guide (IPG) having the color as a background color for the television presentation listing,*** wherein the IPG includes a main program display area that contains the television presentation listing that is assigned the color and information corresponding to the availability of the television presentation listing for viewing during at least one time period.

***(Emphasis added.)***

As argued above, *Young* appears, *arguendo*, to teach highlighting a program that is selected for recording, highlighting a program after that program has been recorded, and highlighting a mis-recorded cell with a different color/pattern than that of a recorded program or a program selected for recording. There is no discussion of **selecting** a color, highlight, or other pattern to indicate selection and scheduling of a program for recording.

As further argued above, *Lemmons* appears, *arguendo*, to teach user selection of preference attributes and respective colors as display criteria. The preference attributes are related to the titles, actors, or genres, for example, of a program. The user selection appears, *arguendo*, to apply to groupings and there is no discussion of selecting colors, highlights, or other patterns to indicate selection of individual programs for recording. As also argued above, *Lemmons* does not discuss selecting programs for recording at all, and consequently there is no discussion of **assigning a color to a television presentation listing scheduled for recording**.

Applicants respectfully submit that the combination of *Young* and *Lemmons* does not disclose, teach or suggest “assigning a color to the television presentation listing if the television presentation is scheduled to be recorded,” and “presenting the television presentation listing as part of an interactive program guide (IPG) having the color as a background color for the television presentation listing.” Thus, a *prima facie* case of obviousness is not established based



on *Young and Lemmons*. Consequently, for at least this reason, among others, Applicants respectfully request that claim 50 be allowed and the rejection be withdrawn.

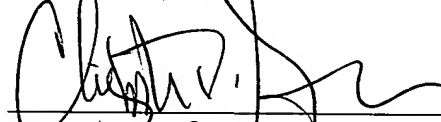
Because independent claim 50 is allowable over the proposed combination, dependent claims 51-56 are allowable as a matter of law for at least the reason that dependent claims 51-56 contain all elements of independent claim 50. See, *e.g.*, *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Accordingly, the rejection to dependent claims 50-56 should be withdrawn for at least this reason, among others.

### **CONCLUSION**

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for at least the specific and particular reason that the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

Applicants respectfully maintain that the currently pending claims are in condition for allowance. Should the Examiner have any comments or suggestions that would place the subject patent application in better condition for allowance, she is respectfully requested to telephone the undersigned attorney at (770) 933-9500.

**THOMAS, KAYDEN, HORSTEMEYER  
& RISLEY, L.L.P.**



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**Christopher G. Guinn, Reg. No. 54,142**

Thomas, Kayden, Horstemeyer & Risley, LLP  
100 Galleria Parkway, NW  
Atlanta, GA 30339  
Ph: (770) 933 - 9500  
Fax: (770) 951 - 0933